

he may think proper to impose; but no goods which are chargeable with a duty can be landed in any other place than a public port. (q) A right of property in a public port itself may give to an individual a right to demand and receive tolls of various denominations; of which anchorage is an example. It has been determined, that land covered by navigable water may be granted by the state to an individual. (r) Whence it would seem to follow, that if the land covered by the navigable water of a public port was held as private property by an individual, he might have a right to demand and receive a reasonable toll for anchorage in the port, in respect of his property in the soil, and as an evidence of it. (s)

But the most common kind of private rights in a public port, are those which arise from an ownership of the adjacent shores. It is rare to find any port where suitable wharves, keys, and warehouses have not been built for the convenient mooring of ships, and the lading and unlading, and protection of merchandise; and where they have been erected it is most common that some duties are demandable for the use of all of them. These shore duties, as they are called, are of several kinds; but those which are the subject of the present controversy are, first, *moorage*, which is a sum due by law or usage for mooring or fastening of ships to trees or posts at the shore, or to a wharf; and secondly, *wharfage*, which is a toll or duty for the pitching or lodging of goods upon a wharf. (t) These two kind of shore duties, as thus designated in the English books, which are evidently distinct in their nature, the one as a charge for the accommodation of ships, the other as a toll for the use of a landing place for goods, are, in our country, generally, and certainly in the port of Baltimore, spoken of under the one common denomination of *wharfage*, the wharfage due from a vessel, and the wharfage payable on merchandise. (u) And this, perhaps, has arisen from the fact of no duty being demanded of ships which have been moored to the shore where there was no wharf.

All those shore duties demandable by an individual, which are affected by public rights, are not, therefore, held upon the same terms as private property of any other description. No man can

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(q) *Hale de Portibus*, 73; Acts Cong. 2 March, 1799, ch. 128, s. 27 and 30.—(r) *Browne v. Kennedy*, 5 H. & J. 195.—(s) *Hale de Portibus*, 74; 1661, ch. 7, s. 1; 1682, ch. 4.—(t) *Hale de Portibus*, 76; *Mayor of Yarmouth v. Eaton*, 3 Burr, 1402.—(u) *Buszard v. Capel*, 13 Com. Law Rep. 377.